



Municipal Clerk
Atlanta, Georgia

04-0-0361

U-04-06 | U-03-03

AN ORDINANCE
BY: ZONING COMMITTEE

AN ORDINANCE TO GRANT A SPECIAL USE PERMIT FOR A PERSONAL CARE GROUP HOME IN THE R-4 (SINGLE-FAMILY RESIDENTIAL DISTRICT, FOR PROPERTY LOCATED AT **169 FAIRBURN ROAD, S.W.**, IN ACCORDANCE WITH AN ORDER OF THE SUPERIOR COURT OF FULTON COUNTY, ENTERED ON SEPTEMBER 30, 2003 IN THE CASE OF JOHN M. HAMMONTREE VS. CITY OF ATLANTA.

NPU-H

COUNCIL DISTRICT 10

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1. Under the provisions of Section 16-05.005(1)(c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit for a Personal Care Group Home is hereby approved, in accordance with an order of The Superior Court of Fulton County, entered on September 30, 2003 in the case of John M. Hammontree vs. City of Atlanta. Said use is granted to John M. Hammontree and is to be located at **169 Fairburn Road, S.W.**, to wit:

ALL THAT TRACT or parcel of land lying and being in Land Lot 13 of the 14FF District, Fulton County, Georgia, being more particularly shown on the attached map.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta entitled, "Special Use Permit, Procedural Requirements", and the Director of the Bureau of Buildings shall issue a building permit for the development of the above-described property only in compliance with the applicable provisions of said part. Any conditions approved herein (including any conditional site plan) do not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

A true copy,

Khonda Daughin Johnson
Municipal Clerk, CMC

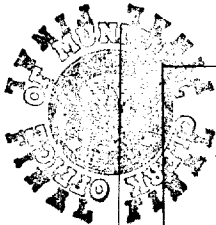
ADOPTED by the Council
APPROVED by the Mayor

JUN 07, 2004
JUN 14, 2004



Conditions for U-04-06/U-03-03

Site plan entitled "169 Fairburn Road, Atlanta, Georgia" prepared by Armentrout, Roebuck, Matheny Consulting Group, P.C., dated October, 2002 and marked received by the Bureau of Planning, January 14, 2003



I certify that I am familiar with the City of Atlanta zoning ordinance, including revisions and that to the best of my ability and knowledge these plans are accurate and comply with the special and district regulations of the zoning ordinance.

John Hammontree

EXISTING STRUCTURES

- EXISTING SINGLE FAMILY RESIDENCE
ONE AND ONE HALF STORIES W/ BASEMENT
FIRST FLOOR: 1,548 S.F.
SECOND FLOOR: 1,548 S.F.
BASEMENT FILL: 1,720 S.F.
TOTAL: 5,796 S.F.
- EXISTING TWO STORY GARAGE/ART
FIRST FLOOR (GARAGE): 576 S.F.
SECOND FLOOR (ART): 576 S.F.
TOTAL: 1,152 S.F.
- SHED (UNBUILT) 64 S.F.

SITE PLAN

SCALE: 1" = 20'-0"

NO CHANGES PROPOSED TO SITE

ZONED: R-4
GROSS LAND AREA: 84,248 S.F.
FLOOR AREA
MAX = 6.2 x 84,248 = 524,137
Proposed = NO CHANGE IN WHAT IS EXISTING
LOT COVERAGE: 14% PROPOSED (144%)

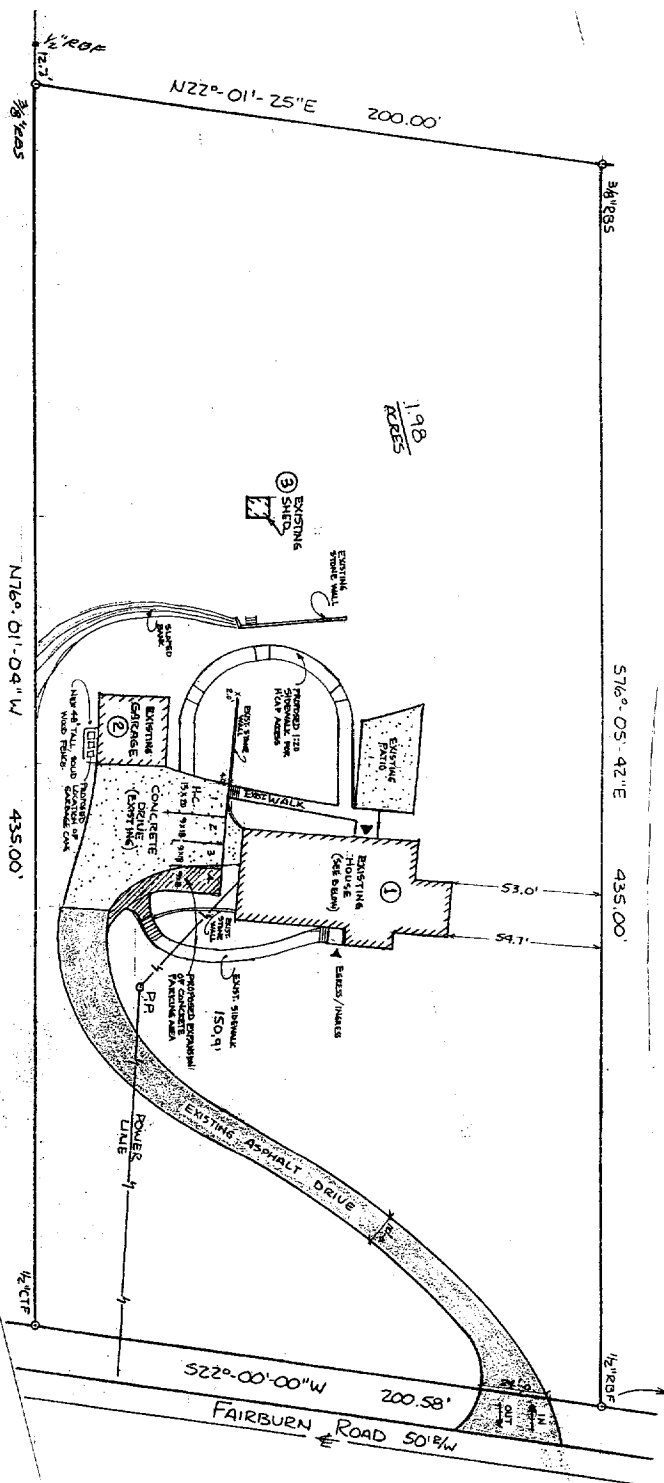
SETBACKS:
FRONT YARD - 20 FEET REQD
SIDE YARD - 5 FEET REQD
REAR YARD - 5 FEET REQD
230.0' EXISTING

- NOTES:
- EXISTING HOUSE ① TO BE CONVERTED TO 13 BED PERSONAL CARE HOME
 - EXISTING GARAGE TO REMAIN AS COVERED PARKING W/ ONE BEDROOM ART FOR ON SITE CARE GIVER
 - EXISTING CONCRETE PARKING AREA TO BE ENLARGED TO ACCOMMODATE 4 PARKING SPACES (INCLUDING HC SHED) PERSONAL CARE HOME REQUIRES ONE SPACE PER 4 RESIDENTS
 - EXISTING DRIVE TO REMAIN
 - NO NEW STRUCTURES ARE PROPOSED
 - NO TREE REMOVAL PROPOSED / EXISTING LANDSCAPING TO BE MAINTAINED



U-04-06

4-03-03



PROJECT OF: JOHN HAMMONTREE - OWNER
169 FAIRBURN ROAD
ATLANTA, GEORGIA
FULTON COUNTY



ARMENTROUT + ROEBUCK + MATHENY
CONSULTING GROUP, P.C.
ENGINEERS-ARCHITECTS-CONSTRUCTION MANAGERS
CARRIAGE COMPANY CAMPUS
300 RESEARCH DRIVE, SUITE 200
ATLANTA, GEORGIA, USA 30305-2760
PHONE: (770) 548 8311
FAX: (770) 548 8311
http://www.armenrout-roebuck-matheny.com



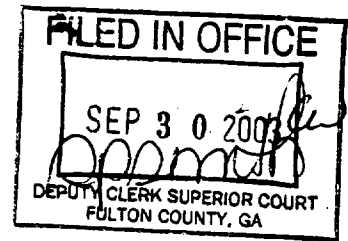
DESIGNED: DMW
DRAWN: DMW
CHECKED: DMW
APPROVED: DMW
DATE: 01/15/03

REVISIONS		
DATE	BY	DESCRIPTION



ORIGINAL

THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA



JOHN M. HAMMONTREE
Plaintiff,

v.

Civil Action No. 2003CV73598

CITY OF ATLANTA, GEORGIA, the
CITY OF ATLANTA CITY COUNCIL,
and NORMAN KOPLON, in his Official
Capacity as Director of the Bureau of
Buildings,
Defendants.

FINAL ORDER

This case being called for a non-jury calendar before this Court on September 29, 2003, and the Court having heard counsel for each party and reviewed the Record of the proceedings on Special Use Permit Application No. U-03-03 before the City Council of the City of Atlanta, Georgia;

IT IS HEREBY FOUND ORDERED AND ADJUDGED that Plaintiff's Appeal from the City Council, Mandamus and Other Equitable Relief is GRANTED in part and the City is ordered to issue the Special Use Permit, Application U-03-03, for property located at 169 Fairburn Road, SW, Atlanta, Fulton County, Georgia for Plaintiff to operate a personal group care facility for 13 residents. This Court's ruling in favor of Plaintiff's appeal renders moot the rest of Plaintiff claim.

This Court, having reviewed the Record of evidence presented as part of the Special Use Permit Application No. U-03-03, finds that no record evidence was adduced which

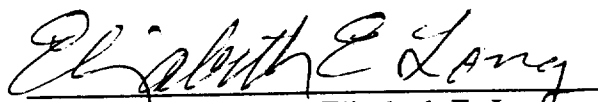


supported the denial of the application and that the denial of the application therefore was a gross abuse of discretion. Defendant's own Staff expressly found that the application complied with the objective criteria set forth in the Ordinance and these findings of fact were unanimously adopted by the Zoning Review Board and stand unchallenged. A city council reviewing a special use permit acts in a quasi-judicial, not a legislative capacity. Dougherty County v. Webb, 256 Ga. 474, n. 3, 350 S.E.2d 457 (1986); and Fulton County v. Bartenfeld, 257 Ga. 766, 363 S.E.2d 555 (1988). This Court further finds that record evidence did not support the imposition of a two-year limit on the SUP and therefore orders that the permit be issued according to Staff's findings that "perpetual" is appropriate.



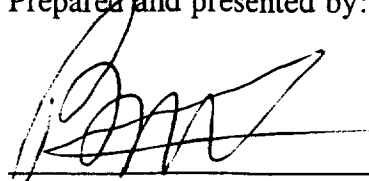
THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT the Council's denial of Plaintiff's application a gross abuse of discretion and that the permit should be and hereby is granted. Defendants are ordered to issue the Special Use Permit, Application No. U-03-03, according to the Staff's recommendations as set forth in the Record without any limit as to the duration.

IT IS SO ORDERED this 30th day of September, 2003.


The Honorable Judge Elizabeth E. Long
Superior Court of Fulton County



Prepared and presented by:



Brian E. Daughdrill

Georgia Bar No. 205760

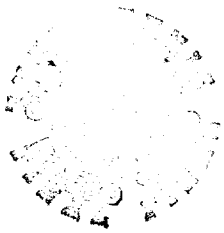
Phears & Moldovan

4725 Peachtree Corners Circle, Suite 375

Norcross, Georgia 30092

770-446-2116





GEORGIA, FULTON COUNTY

I, DO CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE
COMPLETE AND CORRECT COPY-OF THE ORIGINAL IN SAID
CASE, AS APPEARED BY THE ORIGINAL ON FILE IN THE OFFICE
OF THE CLERK OF THE SUPERIOR COURT, CONSISTING
OF 03 PAGES.

ATTEST BY THE SEAL OF SAID COURT THIS THE
28 DAY OF February 2004

Walter Adams
DEPUTY CLERK, FULTON SUPERIOR COURT

JUANITA HICKS
CLERK OF THE SUPERIOR COURT
OF FULTON COUNTY, GEORGIA

RCS# 5791
6/07/04
3:09 PM

Atlanta City Council

Regular Session

MULTIPLE

04-O-0624/Z-04-26, 04-O-0495/Z-04-31,
04-O-0361/U-04-06, 04-O-0629/U-04-07
ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 1
ABSENT 1

E Smith	Y Winslow	Y Shook	Y Martin	Y Mitchell
B Starnes	Y Archibong	Y Muller	Y Maddox	Y Norwood
Y Young	Y Fauver	Y Moore	NV Mosley	Y Willis

MULTIPLE

04-0-0361

(Do Not Write Above This Line)

U-04-061

AN ORDINANCE U-03-03
BY: ZONING COMMITTEE

AN ORDINANCE TO GRANT A SPECIAL
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GROUP HOME IN THE R-4
(SINGLE-FAMILY RESIDENTIAL)
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ON SEPTEMBER 30, 2003
IN THE CASE OF JOHN M.
HAMMONTREE VS CITY
OF ATLANTA.

NTU-H COUNCIL DISTRICT 10

ADOPTED BY

JUN 07 2004

COUNCIL

- ☐ CONSENT REFER
☒ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER

Date Referred 3/1/2004

Referred To: ZRB & Zoning

First Reading

Committee

Date

Chair

Committee

Date

Chair

Action:

Fav, Adv, Held (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Held (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Held (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Held (see rev. side)

Other

Members

Refer To

COUNCIL ACTION

☒ 2nd

☐ 1st & 2nd

☐ 3rd

Readings

☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

CERTIFIED

JUN 7 2004

COUNCIL PRESIDENT PROTEM

CERTIFIED

JUN 07 2004

Richard D. Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

JUN 14 2004

MAYOR